

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Aug 27, 2021**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

NOE RUBIO-FARIAS

Defendant.

No. 1:21-CR-02009-SAB-1

ORDER ACCEPTING PLEA AND  
SETTING SENTENCING SCHEDULE

On August 25, 2021, Defendant appeared before the Court in Yakima, Washington and entered a plea of guilty to Count 1 of the Information Superseding Indictment filed on the same day, charging him with Carrying a Firearm During and in Relation to a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c)(1)(A). Defendant was represented by Gregory L. Scott. The United States was represented by Assistant United States Attorney Ian Garriques.

The Court finds that Defendant is fully competent and aware of the nature of the charges and consequences of the plea, that he knowingly waived his right to indictment by a grand jury, that the plea of guilty is knowing and voluntary, is not induced by fear, coercion, or ignorance, and is supported by an independent basis in fact establishing each of the essential elements of the crime. Therefore, Defendant's plea of guilty is accepted.

Accordingly, **IT IS ORDERED:**

1. All pending pretrial motions, if any, are **DENIED AS MOOT.**

2. Sentencing shall be held **December 8, 2021, at 10:00 a.m. in Yakima,** Washington. Pending sentencing Defendant shall remain in the custody of the United

ORDER ACCEPTING PLEA AND SETTING SENTENCING SCHEDULE ~ 1

1 States Marshals Service pursuant to this Court's previous Order.

2 3. The United States Probation Officer shall prepare a timely presentence  
3 investigation report ("PSIR") which will comply with the following schedule:

4 (a) Not less than **35 days prior to the date set for sentencing**, the Probation  
5 Officer shall disclose the PSIR to counsel for Defendant and the United States. Within **14**  
6 **days thereafter**, counsel shall communicate in writing to the probation office any  
7 objections they may have as to any factual errors or omissions; sentencing classifications;  
8 sentencing guideline ranges; and policy statements contained in or omitted from the report.  
9 Such communication may be oral initially but shall immediately be confirmed in writing to  
10 the Probation Officer and opposing counsel.

11 Objections shall be numbered and identify the paragraph(s) to which the  
12 objection applies. Objections shall address the PSIR in sequential order, beginning with  
13 the lowest numbered paragraph.

14 (b) After receiving counsel's objections, the Probation Officer shall conduct  
15 any further investigation and make any revisions to the PSIR that may be necessary. The  
16 Probation Officer may require counsel for both parties to meet with the officer to discuss  
17 unresolved factual and legal issues and counsel shall make themselves available for that  
18 purpose.

19 (c) At least **10 days prior to the date of the sentencing hearing**, the  
20 Probation Officer shall submit the PSIR to the sentencing judge. The PSIR shall be  
21 accompanied by an addendum setting forth any objections counsel may have made,  
22 including those that have not been resolved, together with the officer's comments and  
23 recommendations thereon. The Probation Officer shall certify that the contents of the  
24 report, other than sentencing recommendations, including any revisions or addenda, have  
25 been disclosed to counsel for the Defendant and the United States, and that the addendum  
26 fairly states any remaining objections.

27 (d) Except with regard to any written objection made under sub-division (a),  
28 the PSIR and computations shall be accepted by the Court as accurate. Upon a timely

1 objection by the Defendant, the United States bears the burden of proof on any fact that is  
2 necessary to establish the base offense level. The Court, however, for good cause shown,  
3 may allow a new objection to be raised at any time before the imposition of sentence. In  
4 resolving disputed issues of fact, the Court may consider any reliable information  
5 presented by the Probation Officer, the Defendant, or the United States.

6 (e) Nothing in this Order requires the disclosure of any portions of the PSIR  
7 that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure.

8 (f) The PSIR shall be deemed to have been disclosed: (1) when a copy of the  
9 report is physically delivered; or (2) one day after the report's availability for inspection is  
10 orally communicated; or (3) three days after a copy of the report or notice of its  
11 availability is mailed to counsel, whichever date is earlier.

12 (g) **Any memorandum or motion** regarding sentencing must be filed and  
13 served at least **15 days prior to the date set for sentencing**. The opposing party shall file  
14 and serve a response, if any, **within 7 days** of receipt of the motion.

15 4. By and through this Order, the District Court Executive is authorized to accept  
16 Defendant's payment in the amount of \$100 per count, for a total of \$100, toward Special  
17 Penalty Assessments.

18 The District Court Executive is directed to file this Order and provide copies to  
19 counsel **AND TO** the United States Probation Office.

20 **DATED** this 27th day of August 2021.



24  
25

A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

26 Stanley A. Bastian  
27 Chief United States District Judge  
28